

**IN THE UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION**

IN THE MATTER OF:)	
)	
TODD G. HANNER and TRISTA J. HANNER,)	CHAPTER 13 CASE NO. 09-60809
Debtors.)	
)	
)	
TODD G. HANNER and TRISTA J. HANNER,)	ADVERSARY. PROC. NO. 09-06049
)	
Plaintiffs,)	
vs.)	
)	
SUNTRUST BANK,)	
)	
Defendant.)	

DECLARATION OF COUNSEL AND MOTION FOR RECONSIDERATION

NOW COMES Todd G. Hanner and Trista J. Hanner, Debtors and the Plaintiffs herein, by and with their undersigned counsel, and respectfully asks that the Court reconsider its ruling from the bench at the June 15, 2009 pre-trial conference regarding dismissal of this proceeding, and represents as follows:

1. Through inadvertence and failure to institute sufficient schedule control procedures at his recently-opened solo law office, Plaintiff's undersigned counsel failed to appear at the pre-trial conference in this proceeding that was on the docket for June 15, 2009 at 9:30 a.m. Upon discovering this failure the following day, he telephoned the Office of the Clerk. He was advised that the Court had ruled from the bench that this proceeding would be dismissed if no further action were taken by the end of the day, Monday, June 15, 2009.
2. The Plaintiff's Complaint in this matter is well-founded and has been duly served. The Defendant has filed no pleading or response although its time for so doing under the Rules of Bankruptcy Procedure has expired. In the event the Court grants this Motion, Plaintiffs would expect to promptly file a motion for the Defendant to be found in default. The Defendant therefore will not be prejudiced in the event this motion were to be granted.

3. Counsel apologizes to the Court for his said failure to appear, and has put improved schedule control practices in place at his law office to assure that such failures do not recur.

WHEREFORE, the Plaintiffs and their counsel respectfully request that the Court reconsider its ruling issued from the bench on June 15, 2009, and cause the docket to so reflect in contemplation that Plaintiffs shall promptly file their motion for the Defendant to be found in default.

Dated: June 16, 2009.

TODD G. HANNER AND TRISTA J. HANNER

By: /s/ Richard D. Shepherd
Counsel

/s/ Richard D. Shepherd
Declarant

Richard D. Shepherd
VSB #19976
The Law Office of Richard Shepherd
Location: 92-B Industrial Way, Suite 5
U.S. Mail: P.O. Box 1045, Troy, VA 22974-1045
(434) 242-0329
e-mail: richard@CentralVaLaw.com
Counsel for Plaintiffs

CERTIFICATION

I hereby certify that a true copy of the foregoing motion was mailed or electronically delivered to Gail Letts, President and CEO, Central Virginia Region, Suntrust Bank, 919 East Main Street, Richmond, VA 23219 and Dana S. Bruce, Suntrust Bank, 919 East Main Street, Richmond, VA 23219 on June 16, 2009.

/s/ Richard D. Shepherd